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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 317

Introduced by Assembly Member Charles Calderon

February 9, 2011

An act to amend ~~Sections 798.21 and~~ *Section 798.74.5* of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Charles Calderon. Mobilehomes.

Existing law, the Mobilehome Residency Law, governs tenancies in mobilehome parks, and imposes various duties on the owners of mobilehome parks and the agents and representatives authorized to act on behalf of the owners. Existing law exempts a rental agreement from any local ordinance, rule, regulation, or initiative that establishes a maximum amount that a landlord may charge a tenant for rent if a mobilehome space within a mobilehome park is not the principal residence, as defined, of the mobilehome owner. ~~Existing law further makes those exemptions inapplicable under certain circumstances.~~ *Existing law requires the management of a mobilehome park to give a prospective homeowner a document containing specified information*

within 2 business days of receiving a request from the prospective homeowner for an application for residency in the mobilehome park if the management has been advised that the mobilehome occupying the requested space is for sale. Under existing law, the management must also provide a copy of the rules and regulations of the park at the prospective homeowner's request.

~~This bill would specify factors upon which management of a mobilehome park may rely to determine whether a residence is the mobilehome owner's principal residence, including, among others, evidence that a mobilehome owner rents, leases, occupies, or has a present ownership interest in another place of residence. The bill would provide certain exceptions to these provisions, including circumstances where the mobilehome is occupied by a full-time resident who is 55 years of age or older, or who has a disability or handicap, as specified.~~

The bill would revise the above-described document to include language advising prospective homeowners that if they do not occupy the mobilehome as their principal residence, those homeowners may be no longer subject to any local ordinances, rules, regulations, or initiative measures limiting or restricting rent in mobilehome parks.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 798.21 of the Civil Code is amended to~~
2 ~~read:~~
3 ~~798.21. (a) Notwithstanding Section 798.17, if a mobilehome~~
4 ~~space within a mobilehome park is not the principal residence of~~
5 ~~the mobilehome owner, it shall be exempt from any ordinance,~~
6 ~~rule, regulation, or initiative measure adopted by any city, county,~~
7 ~~or city and county, that establishes a maximum amount that the~~
8 ~~landlord may charge a tenant for rent.~~
9 ~~(b) Nothing in this section shall be construed to authorize~~
10 ~~management to gain access to any records which would otherwise~~
11 ~~be confidential or privileged.~~
12 ~~(c) For purposes of this section, a mobilehome shall be deemed~~
13 ~~to be the principal residence of the homeowner, except as provided~~
14 ~~in subdivision (e).~~
15 ~~(d) Before modifying the rent or other term of tenancy as a result~~
16 ~~of a review of evidence that a mobilehome is not the principal~~

1 residence of a homeowner, the management shall notify the legal
2 owner, as defined in Section 18005.8 of the Health and Safety
3 Code, each junior lienholder, as defined in Section 18005.3 of the
4 Health and Safety Code, and the registered owner of the
5 mobilehome, if other than the homeowner, by United States mail,
6 of the proposed changes and provide a copy of the documents upon
7 which the management relied.

8 (e) Evidence that a mobilehome is a homeowner's principal
9 residence shall not require that the homeowner be physically
10 present in the mobilehome continuously or at all times. However,
11 the evidence must show that the mobilehome is the homeowner's
12 domicile and permanent residence. Evidence that the mobilehome
13 is not the homeowner's principal residence shall include, but is
14 not limited to, the following factors, which shall be weighed in
15 light of the totality of the circumstances:

16 (1) The homeowner does not carry on basic living activities at
17 the mobilehome for extended periods of time, as demonstrated by
18 a lack of utility usage.

19 (2) Another property or mobilehome is listed as the
20 homeowner's place of residence on any motor vehicle registration,
21 driver's license, voter registration, or with any other public agency,
22 including federal, state, and local taxing authorities.

23 (3) The bill for utilities for the mobilehome is mailed to a
24 different residential property.

25 (4) The homeowner's personal possessions are not located in
26 the mobilehome.

27 (5) A homeowner files a tax exemption or renter's credit for a
28 different property or the homeowner is the owner of record of a
29 different residential property. This paragraph shall not apply to
30 homeowners who established tenancy prior to January 1, 2013.

31 (6) The homeowner is a corporation or is otherwise not a natural
32 person.

33 (7) The homeowner is absent from the unit for extended periods
34 of time, other than for military service, hospitalization, vacation,
35 family or friend emergency or care, Peace Corps service, academic
36 sabbatical, or other reasonable temporary or seasonal periods of
37 absence, such as travel necessitated by employment or education.

38 (8) The mobilehome is used primarily for storage, entertaining,
39 or as an office.

1 ~~(9) The mobilehome has been subleased, except as provided by~~
2 ~~Section 798.23.5 for medical emergencies or medical treatment.~~

3 ~~(10) Possession of the mobilehome has been transferred without~~
4 ~~the approval of the management pursuant to Sections 798.74 and~~
5 ~~798.75.~~

6 ~~(11) The principal residence of the homeowner is located outside~~
7 ~~the state.~~

8 ~~(f) The homeowner shall have 90 days from the date the notice~~
9 ~~described in subdivision (d) is mailed to review and respond to~~
10 ~~the notice. Management may not modify the rent or other terms~~
11 ~~of tenancy prior to the expiration of the 90-day period or prior to~~
12 ~~responding, in writing, to information provided by the homeowner.~~
13 ~~Management may not modify the rent or other terms of tenancy if~~
14 ~~the homeowner provides documentation during the 90-day period~~
15 ~~that reasonably establishes that the information provided by~~
16 ~~management was incorrect or that the homeowner is not the same~~
17 ~~person identified in the documents. This subdivision shall apply~~
18 ~~regardless of a change in the homeowner's exemption status, if~~
19 ~~applicable, or to the listing of the mobilehome for sale after service~~
20 ~~of the notice described in subdivision (d).~~

21 ~~(g) This section does not apply under any of the following~~
22 ~~conditions:~~

23 ~~(1) The mobilehome is the homeowner's principal residence.~~

24 ~~(2) The space is subleased pursuant to Section 798.23.5.~~

25 ~~(3) The mobilehome is occupied by a full-time resident who is~~
26 ~~55 years of age or older and the mobilehome is owned by a child~~
27 ~~of that resident.~~

28 ~~(4) The mobilehome is occupied by a full-time resident who~~
29 ~~has a disability or handicap and the mobilehome is owned by a~~
30 ~~parent or guardian of that resident.~~

31 ~~(5) Ownership of the mobilehome is transferred, upon the death~~
32 ~~of the registered owner, to an heir, joint tenant, or personal~~
33 ~~representative who, pursuant to Section 798.7, is approved for~~
34 ~~tenancy and uses the mobilehome as his or her principal residence.~~

35 ~~(6) Management elects to apply an exemption or right set forth~~
36 ~~in an ordinance, rule, regulation, or initiative measure that~~
37 ~~establishes a maximum amount that a landlord may charge a tenant~~
38 ~~for rent.~~

39 ~~(7) The mobilehome is being actively held available for sale by~~
40 ~~the homeowner, or pursuant to a listing agreement with a real estate~~

1 broker licensed pursuant to Chapter 3 (commencing with Section
2 10130) of Part 1 of Division 4 of the Business and Professions
3 Code, or a mobilehome dealer, as defined in Section 18002.6 of
4 the Health and Safety Code, and management has been given notice
5 thereof, after service of the notice described in subdivision (d). A
6 homeowner, real estate broker, or mobilehome dealer attempting
7 to sell a mobilehome shall actively market and advertise the
8 mobilehome for sale in good faith to bona fide purchasers for value
9 in order to remain exempt pursuant to this subdivision. This
10 paragraph shall apply as long as the mobilehome remains vacant
11 and unoccupied, but if the mobilehome is occupied, this paragraph
12 shall only apply after a reasonable time for sale of the mobilehome
13 has been provided, not to exceed 120 days after the date of service
14 of the notice described in subdivision (d).

15 (8) The legal owner has taken possession or ownership, or both,
16 of the mobilehome from a registered owner through either a
17 surrender of ownership interest by the registered owner or a
18 foreclosure proceeding.

19 ~~SEC. 2.~~

20 *SECTION 1.* Section 798.74.5 of the Civil Code is amended
21 to read:

22 798.74.5. (a) Within two business days of receiving a request
23 from a prospective homeowner for an application for residency
24 for a specific space within a mobilehome park, if the management
25 has been advised that the mobilehome occupying that space is for
26 sale, the management shall give the prospective homeowner a
27 separate document in at least 12-point type entitled
28 "INFORMATION FOR PROSPECTIVE HOMEOWNERS,"
29 which includes the following statements:

30
31 "As a prospective homeowner you are being provided with certain
32 information you should know prior to applying for tenancy in a
33 mobilehome park. This is not meant to be a complete list of
34 information.

35
36 Owning a home in a mobilehome park incorporates the dual role
37 of "homeowner" (the owner of the home) and park resident or
38 tenant (also called a "homeowner" in the Mobilehome Residency
39 Law). As a homeowner under the Mobilehome Residency Law,
40 you will be responsible for paying the amount necessary to rent

1 the space for your home, in addition to other fees and charges
2 described below. You must also follow certain rules and regulations
3 to reside in the park.

4
5 If you are approved for tenancy, and your tenancy commences
6 within the next 30 days, your beginning monthly rent will be \$____
7 (must be completed by the management) for space number ____
8 (must be completed by the management). Additional information
9 regarding future rent or fee increases may also be provided.

10
11 In addition to the monthly rent, you will be obligated to pay to the
12 park the following additional fees and charges listed below. Other
13 fees or charges may apply depending upon your specific requests.
14 Metered utility charges are based on use.

15
16 _____
17 _____
18 (Management shall describe the fee or charge and a good faith
19 estimate of each fee or charge.)

20
21 Some spaces are governed by an ordinance, rule, regulation, or
22 initiative measure that limits or restricts rents in mobilehome parks.
23 These laws are commonly known as “rent control.” Prospective
24 purchasers who do not occupy the mobilehome as their principal
25 residence may be subject to rent levels which are not governed by
26 these laws. Long-term leases specify rent increases during the term
27 of the lease. By signing a rental agreement or lease for a term of
28 more than one year, you may be removing your rental space from
29 a local rent control ordinance during the term, or any extension,
30 of the lease if a local rent control ordinance is in effect for the area
31 in which the space is located.

32
33 A fully executed lease or rental agreement, or a statement signed
34 by the park’s management and by you stating that you and the
35 management have agreed to the terms and conditions of a rental
36 agreement, is required to complete the sale or escrow process of
37 the home. You have no rights to tenancy without a properly
38 executed lease or agreement or that statement. (Civil Code Section
39 798.75)

1 If the management collects a fee or charge from you in order to
2 obtain a financial report or credit rating, the full amount of the fee
3 or charge will be either credited toward your first month's rent or,
4 if you are rejected for any reason, refunded to you. However, if
5 you are approved by management, but, for whatever reason, you
6 elect not to purchase the mobilehome, the management may retain
7 the fee to defray its administrative costs. (Civil Code Section
8 798.74)
9

10 We encourage you to request from management a copy of the lease
11 or rental agreement, the park's rules and regulations, and a copy
12 of the Mobilehome Residency Law. Upon request, park
13 management will provide you a copy of each document. We urge
14 you to read these documents before making the decision that you
15 want to become a mobilehome park resident.
16

17 Dated: _____

18 Signature of Park Manager: _____

19 Acknowledge Receipt by Prospective Homeowner: _____”
20

21 (b) Management shall provide a prospective homeowner, upon
22 his or her request, with a copy of the rules and regulations of the
23 park and with a copy of this chapter.